

St. Louis City Ordinance 62723

FLOOR SUBSTITUTE

BOARD BILL NO. [92] 193

INTRODUCED BY ALDERMAN VELMA BAILEY

An ordinance authorizing and directing the Mayor and the Comptroller to enter into a lease-purchase agreement, regarding certain real estate belonging to the City of St. Louis and located at 2825 North Market in the City of St. Louis, known as the Kennedy Skill Center, under the terms and conditions set forth herein, and containing an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Mayor and the Comptroller of the City of St. Louis are hereby authorized and directed to enter into a lease-purchase agreement with O'Fallon 2000, Inc., pursuant to the terms and conditions of a certain Lease-Purchase Agreement attached as Exhibit "A", of certain real estate belonging to the City of St. Louis and located at 2825 North Market in the City of St. Louis, also known as the Kennedy Skill Center and more fully described in the Lease-Purchase Agreement attached as Exhibit "A".

SECTION TWO. The Mayor and the Comptroller of the City of St. Louis are hereby authorized and directed to execute and deliver a Quit Claim Deed to O'Fallon 2000, Inc. of the described property upon payment pursuant to the terms and conditions of the Lease-Purchase Agreement attached as Exhibit "A".

SECTION THREE. The passage of this ordinance being deemed necessary for the preservation of the public peace, health and safety, it is hereby declared to be an emergency measure within the meaning of §§19 and 20 of Article IV of the Charter of the City of St. Louis and shall become effective upon its passage and approval by the Mayor.

EXHIBIT "A"

LEASE-PURCHASE AGREEMENT

BETWEEN THE CITY OF ST. LOUIS
AND
O'FALLON 2000, INC.

This agreement is made and entered into this ____ day of _____, 1992, by and between the City of St. Louis, a Municipal Corporation of the State of Missouri, hereinafter referred to as Lessor, and O'Fallon 2000, Inc., a Community Development Corporation of the State of Missouri, hereinafter referred to as Lessee, under authority of Ordinance #_____, approved _____,

WHEREAS, Lessee desires to lease from Lessor property owned by Lessor located at 2825 North Market, known as the Kennedy Skill Center, and comprising all of Block 2361 of the City of St. Louis, more fully described as follows:

All of Block 2361 of the City of St. Louis, being more particularly described as follows: Beginning at the point of intersection of the North line of North Market Street with the East line of Glasgow Avenue; thence Northwardly along the East line of Glasgow Avenue, 264 feet 1-3/8 inches, more or less, to its intersection with the South line of Benton Street; thence Eastwardly along the south line of Benton Street, 603 feet 4 inches, more or less, to its intersection with the West line of Leffingwell Avenue; thence Southwardly along the West line of Leffingwell Avenue, 265 feet 7 inches, more or less, to its intersection with the North line of North Market Street; thence Westwardly along the North line of North Market Street, 603 feet 8 inches, more or less, to the point of beginning.

WHEREAS, Lessee also desires to purchase said premises at the expiration of the lease term contained herein;

NOW, THEREFORE, for and in consideration of the premises and of the covenants and agreements herein contained, the parties hereto hereby obligate themselves as follows:

ARTICLE I

Nature of Business

Lessee agrees to convert the above described property into a minority and/or women's business enterprise business facility, and to relocate Mechanics Products, after converting it into a minority business enterprise, to the above described property within two months after entering this lease-purchase agreement.

For purposes of this Lease-Purchase Agreement, the following terms have the meanings indicated:

1. Minority and/or Women's Business Enterprise Business Facility: A structure and/or structures utilized as a location for the operation of Minority Business Enterprises and/or Women's Business Enterprises.

2. Minority Business Enterprise (MBE): A sole proprietorship, partnership, or corporation owned, operated, and controlled by minority group members who have at least 51% ownership. The minority group member(s) must have day to day operational and managerial control, and an interest in capital and earnings commensurate with his or her percentage of ownership.

3. Minority Group Member(s): Persons legally residing in the United States who are Black or Hispanic.

4. Women's Business Enterprise (WBE): A sole proprietorship, partnership, or corporation owned, operated and controlled by a woman or women who have at least 51% ownership. The woman or women must have day to day operational and managerial control, and an interest in capital and earnings commensurate with her or their percentage of ownership.

Lessee further agrees to create at least fifty (50) full-time new jobs through its facility at the above described property. Lessee agrees to create new jobs at a rate of at least five (5) full-time new jobs during each of the ten years of this lease-purchase agreement, and the total number of new & full-time jobs created and maintained by Lessee during the term of the lease shall be as follows:

End of Year 1	5
End of Year 2	10
End of Year 3	15
End of Year 4	20
End of Year 5	25
End of Year 6	30
End of Year 7	35
End of Year 8	40
End of Year 9	45
End of Year 10	50

Additionally, Lessee agrees to maintain employment levels at these year-end figures. At the end of each lease year, the total number of full-time new

employees, as governed by the above table, must be working at the above-described premises.

Failure to comply and meet any of the requirements of Article I shall constitute default by the Lessee, and the provisions of Article XV of this Agreement shall govern Lessor's rights upon Lessee's default.

For purposes of this Lease-Purchase Agreement, the following terms have the meanings indicated:

1. Year-end: The date occurring one or more calendar year(s) after the date this Lease-Purchase Agreement is entered.
2. Full-time: Year-round, non-seasonal; wherein each and every employee credited towards the satisfaction of the year-end employment levels listed above average a minimum of 30 hours of work per week and are scheduled and paid to work a minimum of 50 weeks per year, exclusive of holidays, vacations, sick leave.
3. New Job: A position of employment not previously existing, wherein an employer expands employment levels and increases the number of jobs available or wherein an individual becomes an employer in a new venture and creates jobs previously not in existence. Excluded from credit towards the satisfaction of the year-end employment levels listed above are any jobs existing prior to a move or transfer of an existing/operating business to the premises.
4. Total Employment: The "End of Year" employment level figures represented above are cumulative. At the end of every year in question, the stated number of new, full-time jobs must be current and in existence. Any loss of jobs during a given year, where these jobs once had been credited towards the satisfaction of the year-end employment level figures, must be subtracted from the total number of full-time, new jobs and must be replaced in order to satisfy figures for any subsequent year.

Lessee agrees to provide to Parties listed in Article XIV of this Lease-Purchase Agreement an accounting at the end of each and every calendar year during which this Lease-Purchase Agreement is in effect, as to the fulfillment of the full-time, new job requirements listed above.

It is understood by Lessor that Lessee will enter into subleases and agreements with other Minority and/or Women's Business Enterprises in order to establish

a Minority and/or Women's Business Enterprise Business Facility on the premises.

ARTICLE II

Duration of Lease

Lessor agrees to lease to the Lessee the aforementioned property for a period of ten (10) years commencing on _____ and terminating on _____.

ARTICLE III

Rental Payments

For the rights and privileges herein granted, the Lessee shall pay the Lessor during the lease term a monthly rental of Four Hundred Sixteen Dollars and Sixty-Seven Cents (\$416.67) payable in advance on the _____ of each and every calendar month during the term of this lease. Said rental payments up to a total amount of Fifty Thousand Dollars (\$50,000.00) shall be applied as a credit towards purchase price in a sale contract with the City of St. Louis for the premises. Interest at a per annum rate of ten per cent (10%) will be charged retroactive to the first of the month for rents not paid by the thirtieth (30th) of the calendar month.

Rent due and payable to:

Comptroller - City of St. Louis
Room 212 City Hall
St. Louis, MO 63103

This agreement expressly authorizes termination for nonpayment of rent.

ARTICLE IV

Purchase

Lessor shall convey title to the above described premises to the Lessor for One Hundred Thousand Dollars (\$100,000.00), upon Lessee's written request, following the expiration of the lease period and upon satisfaction of all lease payments due under this lease on or before the expiration of the lease period. Said written request must be sent to Lessor at least ninety (90) days before expiration of the lease period. Lessor shall convey title to Lessee by Quit-Claim deed, subject to any deed restrictions, easements and zoning regulations. Lessee is to pay all costs of closing, including costs involving title search and title insurance. Lessor shall also provide at the time of closing an inventory of all items of personal property remaining on the premises.

Credits toward purchase price of the property to be as follows:

(A) Lessee to receive credit toward purchase price for all rents paid during the term of the ten-year lease, as governed by Article III of this Agreement, up to a total credit amount of Fifty Thousand Dollars (\$50,000.00). Interest paid as a result of any late payment of rent is excluded from calculation of this credit.

(B) Lessee to receive credit toward purchase price, in the amount of 50% of the purchase price remaining after credit of all applicable rent payments as detailed in Article IV(a) of this Agreement, if and only if Lessee complies fully with the provisions of Article I.

(C) Lessee to receive credit toward purchase price, in the amount of 25% of the purchase price remaining after credit of all applicable rent payments as detailed in Article IV(A) of this Agreement, if and only if Lessee maintains the above-described property at full occupancy by the end of the ten-year lease period. "Full Occupancy" is defined as 90% of the square footage of the premises being leased and used by a Minority and/or Women's Business Enterprise.

(D) Lessee to receive credit toward purchase price in the amount of 25% of the purchase price remaining after credit of all applicable rent payments as detailed in Article IV(A), if and only if Lessee maintains, during the entire term of the lease, a Neighborhood Group Meeting Room within the facilities at the above-described property. Said Meeting Room shall be approximately 15 x 15 square feet in area and shall be furnished by Lessee with an appropriate conference table and chairs. Lessee shall provide secretarial services necessary for the scheduling and management of the Meeting Room, and shall maintain same in a clean manner.

ARTICLE V

Net Lease

It is the understanding and agreement of the parties hereto that this is a clear "net" lease obligation, the Lessee to bear all expenses and make all payments consistent with the principal of the "net lease" and the Lessee hereby assumes and agrees to perform all duties and obligations with respect to the demised premises, the improvements thereon, and appurtenances thereto, and the use, operation and maintenance thereof, even though such duties and obligations would otherwise be construed to be those of the Lessor.

ARTICLE VI

Indemnifications

Lessee hereby agrees to hold Lessor harmless and indemnify Lessor from all and any claims, demands, actions, causes of actions or judgments against Lessor for personal injuries, damages to property, or claims against the property, including mechanics' liens, arising out of or resulting from, directly or indirectly, the Lessee's use of the demised property, including reimbursement of all costs expended by Lessor in defense of any such claims, demands, actions, causes of actions, or judgments. Lessee hereby agrees to release Lessor from all damages of every kind and character, however or by whomever caused, including acts or omissions by the Lessor, where not the result of willful neglect.

ARTICLE VII

Utility Charges

The Lessee agrees and covenants to pay all utility charges, including, but not limited to, water, gas, electricity, sewage and removal of waste materials used on or arising from the use of the premises and to pay same monthly or as they shall become due.

ARTICLE VIII

Fixtures and Personal Property

It is agreed between the parties hereto that Lessee may install any trade fixtures, equipment and other personal property on the demised premises of a temporary or permanent nature, and Lessor agrees that Lessee shall have the right, at any time, provided Lessee is not in default of any of the terms of this Lease, to remove any and all such trade fixtures, equipment and other personal property which it may have stored or installed in the demised premises. All such fixtures, equipment, and other personal property shall remain the property of Lessee. If Lessee does not exercise its right to purchase said premises at the expiration of the lease term, it shall immediately and at its expense restore the premises to its original condition, regular wear and tear excepted.

ARTICLE IX

Repairs and Alterations

Lessee at its own cost and expense shall make all necessary repairs, improvements and alterations to the premises both interior and exterior. Any repairs, improvements and alternations shall be consistent with the provisions of Article I of this Agreement. Property taken "as is" by Lessee. Any repair, improvement and alteration shall be approved by Lessor, pursuant to all applicable codes and zoning restrictions, and shall be made in a workmanlike manner. Lessee shall maintain the premises in as good condition. Lessee shall return it in such condition at the expiration of the lease term, if Lessee elects not to exercise its option to purchase, or upon default by Lessee.

ARTICLE X

Insurance and Taxes

Lessee at its cost during the lease term shall keep the premises insured against loss by fire and all standard extended coverage for the full, fair, insurable value thereof, at a minimum coverage amount as determined by the Comptroller from time to time, said policies to be in the name of Lessor and Lessee, with loss thereunder payable to Lessor to be applied toward the restoration of the premises. Lessee has a duty to rebuild premises, unless expressly waived by Lessor in writing. Proof of liability coverage policies must be produced by Lessee before execution of this lease. These policies must be non-cancelable without written notice to and written approval from Lessor. All policies of insurance shall be in form and substance satisfactory to Lessor and shall be written with companies satisfactory to the Lessor.

Lessee shall pay any real property taxes and assessments levied during the term hereof by the state and municipality upon the leased premises and Lessee shall pay all such taxes and assessments before same become delinquent. Lessor shall promptly forward to Lessee all bills received by Lessor for such taxes and all such notices Lessor may receive with respect to the assessment upon such property.

ARTICLE XI

Assignment or Subletting

Lessee covenants that the demised premises shall be used only for the purposes mentioned in Article I of this Agreement, and that neither both Lessee or Lessor may assign this Lease Agreement, nor may Lessee sublease these premises, upon written consent and approval of the Lessor, Comptroller. It is understood, however, that Lessor intends these premises to be used for purposes of creating and maintaining a minority business facility only. Lessee shall not be released from its obligations on assignment.

ARTICLE XII

No Constructive Waiver

No waiver of any forfeiture, by acceptance of rent or otherwise, shall waive any subsequent cause of forfeiture, or breach of any condition of this lease; nor shall any consent by Lessor to any assignment or subletting of said premises, or any part thereof, be held to waive or release any assigns or sublessee from any of the foregoing conditions or covenants as against him or them; but every such assignee and sublessee shall be expressly subject thereto.

ARTICLE XIII

Miscellaneous

The covenants and agreements contained herein shall bind and the benefits and advantages shall inure to the respective successors and assigns of the parties hereto. No modifications or changes shall be made to this lease unless the same are made in writing and signed by all parties to this Lease.

Lessee will comply with all laws applicable to the premises, including but not limited to zoning, building and fire codes.

Lessee agrees to permit Lessor and any authorized representatives of the Lessor to enter the premises at all times during usual business hours or at any time in case of emergency, to inspect the same and if the Lessor shall desire, but without implying any obligation on the Lessor so to do, to make any repairs deemed necessary or desirable by the Lessor, and to perform any work in the premises deemed necessary by the Lessor.

ARTICLE XIV

Notices

All notices required by the law and this lease to be given by one party to the other shall be in writing, and the same shall be served by Certified Mail, Return Receipt Requested, in postage prepaid envelopes addressed to the following addresses or such other addresses as may be by one party to the other designated in writing.

As to Lessor:

Comptroller
City of St. Louis
Room 212, City Hall
St. Louis, MO 63103

As to Lessee:

O'Fallon 2000, Inc.
4280 Natural Bridge
St. Louis, MO 63115

With a copy to:

City of St. Louis
City Counselor's Office
Room 314, City Hall
St. Louis, MO 63103

ARTICLE XV

Default

The Lessor shall have the right to enter upon and take possession of said premises or to terminate this Lease-Purchase Agreement prior to the expiration of its terms upon any default by the Lessee hereunder. A default shall occur if Lessee shall fail to pay lease payments within twenty (20) days of the commencement of the lease term; or if Lessee fails to comply with any of the terms or provisions of this agreement.

If, on account of any breach or default by Lessee in Lessee's obligations under the terms and conditions of this lease, it shall become necessary or appropriate for the Lessor to employ or consult with an attorney concerning, or to enforce or to defend, any of Lessor's rights or remedies hereunder, Lessee agrees to pay any attorney's fees so incurred by Lessor.

These provisions in no way limit Lessor's ability to pursue additional remedies or options, not specifically enumerated herein, upon default by Lessee.

ARTICLE XVI

Partial Invalidity

If any one or more of the terms, provisions, covenants or conditions of this lease agreement shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this lease agreement shall be affected thereby, and each provision of this lease agreement shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE XVII

Existing Tenant

The April 2, 1990 Lease Agreement between the City of St. Louis and Central West Trading, attached as Exhibit "1" and incorporated herein, shall remain in full and complete effect. Their tenancy and employee figures shall not be used by Lessee towards the fulfillment of Lessee's Article I obligations of this Agreement during the period of time from the signing of this Lease-Purchase Agreement to November 30, 1993. In the event that Center West Trading agrees to remain on the premises after November 30, 1993 and pursuant to an agreement between Central West Trading and O'Fallon 2000, Inc., Lessee may use the employment figures of Central West Trading, insofar as they comply with the Minority and/or Women's Business Enterprise requirements of this Agreement, towards fulfilling Lessee's Article I obligations.

IN WITNESS WHEREOF, the parties hereto have executed this Lease in several counterparts each of which shall be deemed an original and in manner and form sufficient in law the day and year first above written.

LESSOR

THE CITY OF ST. LOUIS

Mayor

LESSEE

O'FALLON 2000, INC.

By:_____

ATTEST:

Comptroller

Secretary

Approved as to form:

City Counselor

Register

Exhibit 1
Lease Attached

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND

10/09/92	10/09/92	W&M	10/21/92	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
10/23/92			10/23/92	10/30/92
ORDINANCE	VETOED		VETO OVR	
62723				